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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,712	09/27/2001	John Jacob Stimson III	NSC1-M1000 [P05046]	1859
28584	7590	10/07/2004	EXAMINER	
STALLMAN & POLLOCK LLP SUITE 2200 353 SACRAMENTO STREET SAN FRANCISCO, CA 94111			HENN, TIMOTHY J	
		ART UNIT	PAPER NUMBER	
			2612	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/964,712	STIMSON, JOHN JACOB
	<b>Examiner</b>	<b>Art Unit</b>
	Timothy J Henn	2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 27 September 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/27/2001</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the hand drawn figures are difficult to read. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: replace "an scanning" with --a scanning-- in line 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Usami (US 6,677,988).

**[claim 1]**

In regard to claim 1, Usami discloses a method of remotely adjusting at least one operating parameter of a computer controlled image capturing system, the method comprising:

- (a) providing a remote user terminal (Figure 1, Items 1, 12 and 13) coupled to the image capturing system (Figure 1, Item 11 and scanner, c. 3, II. 24-28) via a transmission medium (Figure 1);
- (b) determining a parameter range for the operating parameter (Figure 2; Figure 3; c. 3, II. 33-50);
- (c) dividing the parameter range into a plurality of parameter points (Figure 2; Figure 3; c. 3, II. 33-50; ΔE);
- (d) causing the image capturing system to generate an image at each of the plurality of parameter points (c. 3, II. 41-50) ;
- (e) transmitting the generated images from the image capturing system to the remote user terminal via the transmission medium (Figure 2; Figure 3; c. 3, II. 51-54; the examiner notes that to display the images they must inherently be transmitted to the display device);
- (f) displaying the generated images at the remote user terminal (Figure 2; Figure 3; c. 3, II. 51-54);

- (g) utilizing the remote user terminal to select a best image from the generated images (Figure 2; Figure 3; c. 3, ll. 51 - 65);
- (h) communicating the identity of the selected best image from the remote user terminal to the image capturing system, the identity of the selected best image causing the image capturing system to determine an updated parameter range (Figure 2; Figure 3; c. 3, ll. 51-65; "reducing the value of  $\Delta E$ ");
- (i) dividing the updated parameter range into a plurality of updated parameter points that includes the parameter point associated with the selected best image (Figure 2; Figure 3; c. 3, ll-51-65; the examiner notes that the process returns to step S101 to redisplay images with an updated parameter range); and
- (j) iteratively repeating steps (c)-(i) until a final best image is selected (Figure 2; c. 3, ll. 64-65).

**[claim 2]**

In regard to claim 2, Usami discloses a method wherein the at least one operating parameter is a single operating parameter (Figure 3, c. 41-50; e.g. lightness). The examiner notes that the method disclosed by Usami can inherently be used to adjust a single operating parameter as claimed so long as the user only selects images along a horizontal line (or alternatively a vertical or diagonal line).

**[claim 3]**

In regard to claim 3, Usami discloses a method wherein the at least one operating parameter is a plurality of operating parameters (Figure 3; c. 41-50; lightness,

saturation and hue).

**[claim 5]**

In regard to claim 5, Usami discloses a method wherein the generated images are displayed as a two-dimensional array (Figure 3).

**[claim 10]**

In regard to claim 10, Usami discloses a method of adjusting at least one operating parameter of a computer-controlled image capturing system, the method comprising:

- (a) determining a parameter range for the operating parameter (Figure 2; Figure 3; c. 3, II. 33-50);
- (b) dividing the parameter range into a plurality of parameter points (Figure 2; Figure 3; c. 3, II. 33-50;  $\Delta E$ );
- (c) causing the image capturing system to generate an image at each of the plurality of parameter points (c. 3, II. 41-50) ;
- (d) displaying the generated images (Figure 2; Figure 3; c. 3, II. 51-54);
- (e) selecting a best image from the generated images, selection of the best image causing the image capturing system to determine an updated parameter range (Figure 2; Figure 3; c. 3, II. 51 - 65; "reducing the value of  $\Delta E$ ");
- (f) dividing the updated parameter range into a plurality of updated parameter points that includes the parameter point associated with the selected best image (Figure 2; Figure 3; c. 3, II-51-65; the examiner notes that the process returns to step S101 to redisplay images with an updated parameter range); and

(g) iteratively repeating steps (c)-(i) until a final best image is selected (Figure 2; c. 3, ll. 64-65).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Usami (US 6,677,988).

**[claim 4]**

In regard to claim 4 Usami does not disclose a method wherein the images are displayed as a one-dimensional array. However, it is noted that the invention of Usami is not limited to a specific display structure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display the images of Usami in a one dimensional array to take up less space on the display screen.

7. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Usami (US 6,677,988) in view of Hane (EP 1069764A2).

**[claim 6]**

In regard to claim 6, Usami lacks a method wherein the generated images are moving images having periodic motion, the periodic motion represented as a loop of

animation. Hane discloses a similar system to that of Usami wherein a video signal is used instead of a still picture (e.g. Figure 2; Paragraph 0023). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the system of Usami to use video signals instead of still image signals to increase the functionality of the Usami method.

**[claim 7]**

In regard to claim 7, Hane discloses the use of video signals (e.g. Figure 1, VIDEO OUTPUT).

**[claim 8]**

In regard to claim 8, Usami in view of Hane lacks moving images which are captured as a sequence of still images. Official Notice is taken that it is well known in the imaging art to capture moving images as a sequence of still images. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use moving images captured as a sequence of still images in the system of Usami in view of Hane to allow parameter setting for a moving image captured as a group of still images.

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8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Usami (US 6,677,988) in view of Boies et al. (US 5,426,732).

**[claim 9]**

In regard to claim 9, Usami discloses a method for correcting color parameters in an imaging system. However, it is noted that it is known in the art to correct other

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imaging parameters using the method disclosed by Usami. For example, Boies discloses correcting camera positioning parameters (e.g. pan and tilt) and zoom parameters (see Figures 1, 2a, 2b). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the method of Usami to be able to control camera positioning parameters as taught by Boies. However, Usami in view of Boies et al. lacks an imaging system which is a scanning electron microscope system. Official Notice is taken that the use of scanning electron microscope imaging systems is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the method of Usami in view of Boies to allow a user to easily set the parameters (e.g. position and zoom) of the scanning electron microscope.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art further shows the current state of the art in parameter setting by way of selecting a best image on a display screen:

- |      |               |                |
|------|---------------|----------------|
| i.   | Lee et al.    | US 6,324,695   |
| ii.  | Uehara et al. | JP 64-071377 A |
| iii. | Ryall et al.  | EP 0992944 A1  |

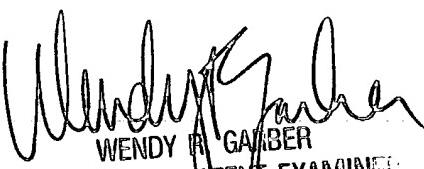
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J Henn whose telephone number is (703) 305-

8327. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJH  
9/28/2004



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